

FILED

MAR 13 2015

Clerk, U.S. District Court
District Of Montana
Missoula

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
HELENA DIVISION

GARY LEE ENZLER,

Petitioner,

vs.

LEROY KIRKEGARD; ATTORNEY
GENERAL OF THE STATE OF
MONTANA,

Respondents.

CV 15-02-H-DLC-JTJ

ORDER


United States Magistrate Judge John T. Johnston entered his findings and recommendations in this case on February 18, 2015, recommending denial of Petitioner Enzler's petition for writ of habeas corpus under 28 U.S.C. § 2254. Enzler failed to timely object to the findings and recommendations, and so waived the right to *de novo* review of the record. 28 U.S.C. § 636(b)(1). The Court will therefore review the record for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981). The Court adopts Judge Johnston's findings and recommendations in full.

Judge Johnston found, and this Court agrees, that Enzler's petition is largely incomprehensible, and as such fails to state a claim on which relief might be

granted. Furthermore, Enzler is currently represented by counsel in an ongoing criminal matter in state court. Dismissing Enzler's petition at this time will not prejudice him – he remains free to file another federal petition after exhausting the state remedies available to him, and after developing a clearer sense of the relief he seeks.

IT IS ORDERED that Judge Johnston's findings and recommendations (Doc. 5) are ADOPTED IN FULL. This action is DISMISSED WITHOUT PREJUDICE. The Clerk of Court shall enter by separate document a judgment in favor of Respondents and against Petitioner Enzler. A certificate of appealability is DENIED.

DATED this 13th day of March, 2015.

A handwritten signature in black ink, reading "Dana L. Christensen". The signature is written in a cursive style with a large, looped initial "D".

Dana L. Christensen, Chief Judge
United States District Court